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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,569

11/10/2003

Karen Norris

KN-1-js

4244

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04/24/2007

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/24/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/705,569

Applicant(s)

NORRIS, KAREN

Examiner

Stephen J. Castellano

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Claims 1-5 and 7-12 have been canceled.

***Claim Rejections - 35 USC § 103***

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abrums.

Abrums discloses a configuration of nestable containers in Fig. 5. In Fig. 6, a container and lid which make a single container unit 20a are shown. The Fig. 6 container unit is more closely related to the container unit claimed with radially outwardly extending rounded protrusions at first and second lips. This rejection combines the teachings of Fig. 5 and 6.

Abrums discloses in Fig. 5 nestable containers, each container includes a base, a wall (sidewall) with first lip at the upper edge and a second lip extending from the base and a flat lid. The lips of Fig. 5 are both rounded as they provide a circular (circumferential) and annular edge. The lips of Fig. 5 outwardly extending as the first lip extends radially outwardly and the second lip extends downwardly and therefore, outwardly from the interior of the base. Figure 5 discloses a single lid retaining channel. The fact that the lid may have more than one retaining channel is irrelevant since claim 1 doesn't preclude more than a single channel. Claim 1 states that the lid channel engages either the first or the second lip. Figure 5 discloses one channel engaging the first lip and another channel engaging the second lip. The Fig. 5 embodiment discloses the invention except for the (1) rounded profile of the cross section of the protrusion, (2) the radial outwardly extending second lip, (3) the second lip extending beyond (radially outwardly) the outer surface of said wall, (4) the outer surface of the wall (sidewall) extending smoothly between the first and second lips, (5) the single channel receiving both lips, (6) the bulbous annular edge of the lip, (7) the snap fit of the lip and (8) the color coded limitation of

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claim 1. The Fig. 6 embodiment of Abrums discloses (1), (2), the second lip extending radially outwardly from a portion of the outer surface, (4), (5), (6) and (7). It would have been obvious to modify the protrusion and lid construction of the Fig. 5 embodiment in view of the Fig. 6 embodiment such that the lid would have only a single channel which engages both lips, the lid has a bulbous annular edge and such that the wall would have first and second radially outwardly extending rounded (in cross section) protrusions as a matter of design choice in selecting a lid that attaches to the open top and base in exactly the same manner. It is noted that the change in position of the second lip would not be accompanied by the addition of a channel to the sidewall so that the second lip would extend radially outwardly from the entire outer surface of the sidewall except for the two lips, limitations (3) and (4). It is believed that explicit motivation lies within Abrums since col. 6, lines 30-54 discuss the Fig. 6 embodiment and that the nesting is specifically mentioned for the Fig. 6 embodiment at col. 6, lines 52-54. Re limitation (8), Abrums further teaches the color coding limitation, col. 6, lines 5-13, "each unit molded in a different color from the other units" and "color coded so as to enable the user ... to locate and match containers and lids." It would have been obvious to add the color coding of units as explicitly motivated by the teaching of such in Abrums.


Applicant's arguments with respect to claim 6 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3781

sjc